

REMARKS

The application is believed to be in condition for allowance.

There are no formal matters pending.

Substantive Issues - Section 103

The Official Action rejected claims 1-20, 22-25, and 28 under 35 USC 103(a) as being unpatentable over Su (US Pub. 2002/0026380; "SU") in view of Keech (US Pub. 2002/0029342; "KEECH").

The Official Action rejected claim 21 under 35 USC 103(a) as being unpatentable over SU in view of KEECH, and further in view of Suila et al. (US Pub. 2002/0194303; "SUILA").

The rejections are respectfully traversed for at least the reasons that follow.

It is respectfully submitted that neither SU nor KEECH, individually or in combination, teach or suggest the invention as recited in claim 1.

For example, no combination of SU and KEECH teach or suggest a preliminary phase of a method of authorizing mandates of payment wherein a message is sent from the user's telephone to a radiotelephony message managing device of a service centre of the issuing institution a radiotelephony message comprising a commercial site identification code, the amount of money and/or instrument identification data and/or user identification data and/or telephone identification data, wherein the commercial site

identification code and the amount of money are inputted by the user during composition of the message, as required by claim 1.

The Official Action states that it would have been obvious for one of skill to have modified SU with KEECH to include sending messages to a commercial site of a confirmation or refusal of authorization of the mandate of payment and commercial site identification code, the amount of money and/or instrument identification data and/or user identification data and/or telephone identification data as taught by KEECH as a combination of allegedly old elements that would have performed the same function as they do separately, one of skill recognizing that the results of the combination were predictable.

Applicant respectfully disagrees. SU is directed to a shopping system integrating electronic and physical commerce comprising a collection of physically embodied stores, an electronic commerce system maintaining information about products and services at the stores, and a delivery means (Abstract; paragraph [0019]). When the shopper places an order with a participating store of the shopping center using an e-shopping client system, a delivery may be arranged with the shopping center's local delivery system to have the order delivered to the shopper's desired location, e.g., the local e-shopping client system site where the shopper is doing e-shopping, (Abstract).

SU is not directed to a method of authorizing mandates of payment. On the contrary, SU teaches the shopper must

conventionally provide the store and/or service provider with data of his credit instrument, e.g. a credit card or a membership card, through a credit card reader (e.g. see paragraphs [0085] and [0088] - see also paragraphs [0049], [0086], [0100]).

In other words, SU concerns a complex and sophisticated method of delivery of goods purchased in an integrated distributed shopping system, while methods of payment remain conventional, i.e. implying the shopper/retailer receives all credit card (or other credit instrument) data of the shopper.

There is no disclosure, for example, that the shopper makes any communication with a service centre of a credit issuing institution, for example. At best, SU teaches that a local E-shopping client system ("ECS") or a remote client system might be installed on a mobile phone able to exchange signals with an Electronic-commerce Server System ("ESS") (paragraphs [0041]-[0042]). These disclosures fail to teach or suggest the invention claimed.

The Official Action proposes modifying SU with KEECH. KEECH concerns a method and system for secure identification wherein a handshake takes place around a permanent identification code provided on some form of hardware, and requires that credit card data be communicated to the shopper/retailer who then transmits them to a main computer. KEECH discloses "when the person wishes to make a purchase using the debit or credit card, he or she presents the card to a retailer. The retailer then

swipes the card through the EFTPOS terminal, which then contacts a main computer operated by the card issuer," (e.g. [0024] and [0076]).

KEECH makes no teaching or suggesting, for example, of a preliminary phase wherein a message is sent from the user's telephone to a radiotelephony message managing device of a service centre of the issuing institution a radiotelephony message comprising a commercial site identification code, as required by claim 1. On the contrary, the preliminary phase of KEECH requires that the retailer receive a transaction card from the user and initiate communication with an institution through a EFTPOS terminal (paragraph [0024]). Only then does the user receive a message from the institution on a mobile device to which he/she must reply to continue the transaction (paragraph [0025]).

Hence, KEECH at least fails to teach the preliminary phase as recited.

Accordingly, it is respectfully submitted that neither SU nor KEECH, individually or in combination, teach all the inventive features required by claim 1.

It is further respectfully submitted that no rational motivation exists to modify SU with KEECH.

As is well known, the Examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). If that burden is met,

only then does the burden shift to the Applicant to overcome the *prima facie* case with argument and/or evidence. (See *Id.*) In performing this obviousness analysis, the Examiner is required to make findings of fact and must provide an articulated reasoning supporting the rejection. The Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

Respectfully, the Official Action has not satisfied this burden.

Applicant has carefully reviewed the Official Action but fails to find either of i) how the secondary reference KEECH is to modify the primary reference SU, and ii) an articulated reasoning why one of skill would modify SU (as directed not to a payment method but to a commerce and delivery method) with any teaching of KEECH. In particular to the former, the Official Action does not indicate the nature of the proposed modification with specificity as to particular elements or steps disclosed by the references.

It is therefore respectfully submitted that the Official Action fails to meet this burden.

Should the present rejection be maintained, Applicant respectfully requests that the aforementioned elements of obviousness be articulated with specificity; it is respectfully

submitted that this is necessary to afford the Applicant an opportunity to understand and respond to the rejection.

Applicant respectfully submits that one of skill would have had no motivation to modify SU with KEECH, at least because SU and KEECH are directed to different solutions to unrelated problems.

Based on all the foregoing, it is respectfully submitted that claim 1 is patentable over SU and KEECH. It is also respectfully submitted that claims depending from claim 1 are patentable at least for depending from a patentable parent claim.

Reconsideration and allowance of the claims are respectfully requested.

The Official Action also indicates that Joyce et al. (US Pub. 2002/0052754; "JOYCE") is also pertinent to the instant invention. JOYCE concerns a complex method and apparatus for providing mobile commerce, electronic commerce, customer care and communication services via a plurality of networks (e.g., see Abstract).

The present invention is not limited from transactions in physical stores. Further, JOYCE provides that the customer via his/her input connects to a vendor (i.e., a service provider) service device, purchase the goods/services, and select a conventional method of payment, whereby, if credit card is selected, the method moves to enter credit card information

(e.g. see paragraph [0253] and Fig. 16 - see also paragraphs [0104] and [0108])).

Moreover, all the cited references require the user to provide a retailer or some other third party with credit account data; the present invention avoids this requirement.

From the foregoing, it will be apparent that Applicant has fully responded to the December 18, 2008 Official Action and that the claims as presented are patentable. In view of this, Applicant respectfully requests reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, the Examiner is invited to telephone the attorney for Applicant at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Jeremy G. Mereness/  
Jeremy G. Mereness, Reg. No. 63,422  
209 Madison Street  
Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

JGM/jr